IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 71318-M of 2006

DATE OF DECISION : 21.11.2006

Dharmender Singh and another

.... PETITIONERS

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. S.S. Joshi, Advocate,
for the petitioners.

* * *

This is third petition filed by the petitioners under Section 439 of the Code of Criminal Procedure for the grant of regular bail in case FIR No. 36 dated 7.5.2006 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Khanauri, District Sangrur. Their last petitions were dismissed by this Court on October 27, 2006. While dismissing the last petition filed by petitioner No.1, the following detailed order was passed :-

> "This is second petition filed by the petitioner under Section 439 of the Code of Criminal Procedure for the grant of regular bail in case FIR No. 36 dated 7.5.2006 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Khanauri, District Sangrur. His earlier petition was dismissed as not pressed on August 17, 2006.
>
> I have heard counsel for the petitioner and gone through the contents of the FIR.
>
> In this case, the petitioner along with his co-accused Ashok Kumar and Khushi Ram was arrested on the spot, when they were travelling in a car and from the said car, 70 Kgs. of poppy husk (commercial quantity) was recovered.

Counsel for the petitioner contends that co-accused of the petitioner, namely Ashok Kumar, who was driving the vehicle, has been granted regular bail by the co-ordinate Bench of this Court vide order dated September 26, 2006, passed in Crl. Misc. No. 52672-M of 2006, while observing as under :-

> "As per allegations, 70 Kgs. of poppy-husk is stated to have been recovered from the present petitioner.
>
> Petitioner is stated to be in custody for the last more than 2 months.
>
> Recovery in this case is not heavy.
>
> Bail to the satisfaction of trial court."

Counsel for the petitioner prays for regular bail of the petitioner on the ground of parity.

After hearing counsel for the petitioner and going through the contents of the FIR as well as the aforesaid order, I am not inclined to grant bail to the petitioner, as in my opinion, Section 37 of the NDPS Act has not been noticed in the aforesaid order, while granting bail to Ashok Kumar. In view of the alleged recovery at the spot from the car, in which the petitioner was travelling, I am not inclined to grant the concession of regular bail to him.

Dismissed."

On the same ground, again, the instant petition has been filed by the petitioners.

When the Court was not inclined to grant bail to the petitioners, counsel for the petitioners stated that the petitioners may be permitted to withdraw this petition.

Dismissed as withdrawn.

November 21, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**